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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

DECISION
ON PETITION

John A. Thomas
Glast, Phillips & Murray
13355 Noel Road, L.B. 48
Dallas TX 75240-6657

In re Application of:
Gary L. Rutledge
Application No. 09/259,000
Filed: February 26, 1999
For: **SINGLE CAMERA VIDEO INSPECTION
SYSTEM FOR WATER WELLS AND BORE
HOLES**

This is a response to the Petition to Withdraw Holding of Abandonment pursuant to 37 C.F.R. §1.181, filed October 6, 2004 and resubmitted on August 25, 2005. No fee is required.

This application became abandoned for failure to timely file a response to the Board of Patent Appeals and Interferences' decision mailed May 14, 2004. Said decision reversed the examiner's rejection of claims 1-4, 9, 18, 19, 23-28 and 33, sustained the examiner's rejection of claims 5-8, 29-32 and set forth a new grounds of rejection with respect to claim 1-9. A Notice of Abandonment was mailed September 22, 2004.

To support this position, Petitioner has included within the combined petitions, a copy of the response, canceling all rejected claims, a copy of a certificate of mailing signed by the petitioner and a copy of a facsimile transmission report which reflects that a 7 page submission was faxed to a USPTO facsimile number on June 10, 2004.

37 C.F.R. § 1.8 Certificate of mailing or transmission states in part:

(a) Except in the cases enumerated in paragraph (a)(2) of this section, correspondence required to be filed in the Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.

(1) Correspondence will be considered as being timely filed if:

(i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:

(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or

(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and

(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated. [emphasis added]

Petitioner's statement that "On June 10, 2004 the applicant transmitted by facsimile an 'Amendment After Decision of Board of Patent Appeals'" is taken as petitioner's personal statement that the correspondence was mailed on or transmitted on the date indicated. Therefore, petitioner has satisfied the requirements of 37 C.F.R. §1.8(a) as set forth above.

Accordingly, the petition is **GRANTED** and holding of abandonment is hereby withdrawn.

It is noted that the revocation of power of attorney filed July 18, 2001 included a copy of the original declaration which include the original powers of attorney for the application. Moreover, the revocation did not include a new power of attorney.

Therefore, the application will be forwarded to the Technology Center's technical support staff for correcting the original powers of attorney (i.e., revoking the original attorneys of record) and for entry of the response submitted with the petition. From there, given that applicant's response was the cancellation of all rejected claims, the application will be forwarded to the examiner to prepare the application for allowance.

A handwritten signature in black ink, appearing to read 'Dwayne Bost', is written over a horizontal line.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications